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### REMARKS

After entry of the present amendment, Claims 41-52 will be pending in this application. Claims 41, 44, 45, 48, and 50 have been amended to address the rejections raised by the Examiner and to place them in condition for allowance. Claims 51 - 56 have been added and are supported by the application as originally filed at page 6, lines 22-24 and page 37, lines 1-6; and page 14, first paragraph. Applicants respectfully submit that these amendments place the application and claims into obvious condition for allowance. Alternatively, the amendments place the application into better form for appeal. Either way, Applicants request that the amendments be entered in accordance with 37 CFR § 1.116. Applicants reserve the right to file a divisional or continuation applications for the withdrawn claims 36-40. A Request for Continued Examination (RCE) and fee have been concurrently filed with the present amendment and response. No new matter is added by the present amendment

#### **I. ANTICIPATION REJECTION OVER CASTEL, KULOW, OR LEWIS**

The June 26, 2005 Office Action rejected claims 26-35 under 37 C.F.R. § 102(b) as being clearly anticipated by *Castel* (U.S. Patent No. 5,413,550) or *Kulow, et al.* (U.S. Patent No. 5,172,692) or *Lewis Jr.* (U.S. Patent No. 4,982,730). This rejection has been repeated in the September 1, 2006 Office Action with respect to claims 41-50, and is respectfully traversed as follows.

The September 1, 2006 Office Action merely reiterates arguments from a prior Office Action that the reflection of ultrasonic waves to the interior surface of the wound is inherent in each cited reference without providing any evidence or indication that the cited references *necessarily function* in the manner recited in the Applicants' claims. Furthermore, the cited art must, in its *normal and usual operation*, necessarily perform the claimed method. See M.P.E.P. 2112.02. The Office Action does not provide any showing that the cited art, in its *normal and usual*

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*operation*, necessarily performs the Applicants' claimed methods (i.e., that the prior art methods reflect ultrasonic waves to the interior surface of a wound). None of the references teach "directing at least some of the ultrasonic waves toward a second surface of the body capable of reflecting ultrasonic waves, wherein the second surface and the ultrasonic transducer form a second angle."

In addition, claim 41 has been amended to recite "reflecting at least some of the emitted ultrasonic waves off of the second body surface," wherein an angle between the ultrasonic transducer and the first body surface, the second body surface, or both, is selected such that at least some of the reflected ultrasonic waves are directed toward the wound and that at least some of the reflected ultrasonic waves contact the wound to promote healing thereof. The Office Action stated that the reflection of the ultrasonic waves from the second body surface was inherent in each of the *Castel*, *Kulow et al.*, or *Lewis, Jr.* references. Even if this were true, none of the references teach selecting the angle of the transducer with respect to the first body surface or the second body surface, or both, such that the reflected waves would be directed to the wound. The first and second angles, therefore, are recited in the claims as result-effective operating parameters; there can be no allegation that manipulating them would have been obvious because the references do not even teach the angles themselves, much less suggest modifying them.

Claim 44 has been amended to recite directing ultrasonic waves to an area offset from the axis of an ultrasonic transducer, creating a first angle with a first body surface, which is selected such that the at least some of the reflected ultrasonic waves are reflected back to the interior surface of the wound. None of the references teach selecting an area offset from the transducer based on a first angle with a first body surface such that the ultrasonic waves reflect upon the interior surface of the wound. For at least these reasons, the anticipation rejection is respectfully traversed. As noted above, the angle between the transducer and the first body surface is a result-

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effective operating parameter in the claims, and the references cannot teach manipulating it because they do not teach the angle is even significant.

### III. THE OBVIOUSNESS REJECTION OVER FOX IN VIEW OF THOMPSON OR PELLICO

The September 1, 2006 Office Action rejected claims 41-50 under 37 C.F.R. § 103(a) as being unpatentable over U.S. Patent No. 4,787,888 to *Fox* (U.S. Patent No. 4,787,888) in view of *Thompson et al* (U.S. Patent No. 5,425,954) or *Pellico* (4,291,025). This rejection is respectfully traversed. The Office Action reiterates arguments from the prior Office Action, arguing that the references teach using an ultrasonic transducer to deliver medicaments to a wound area and that the reflection of the ultrasonic waves to the wound would be inherent. The Office Action, however, provides no basis for asserting that methods disclosed in the cited references *necessarily function* in the manner recited in the Applicants' claims. Furthermore, the cited art must, in its *normal and usual operation*, necessarily perform the claimed method. See M.P.E.P. 2112.02. The Office Action does not provide any showing that the cited art, in its *normal and usual operation*, necessarily performs the Applicants' claimed methods.

None of the cited references, individually or in combination, specifically teach or suggest all of the elements in amended claim 41. None of the references, individually or in combination, teach directing at least some of the ultrasonic waves toward a second surface of the body capable of reflecting ultrasonic waves, wherein the second surface and the ultrasonic transducer form a second angle. Claim 41 has also been amended to include the limitation of reflecting at least some of the emitted ultrasonic waves off of the second body surface, wherein an angle between the ultrasonic transducer and the first body surface, the second body surface, or both, is selected such that at least some of the reflected ultrasonic waves are directed to the interior surface of the wound that at least some of the reflected ultrasonic waves contact the wound to promote healing thereof. The Office Action stated that the

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reflection and change of direction of the ultrasonic waves was inherent in the combination of *Fox* in view of *Thompson et al.* or *Pellico*. However, the Examiner has not shown that the combination of reference teachings include selecting the angle of the transducer with respect to the first body surface, or the second body surface, or both, such that the reflected waves would be directed to the interior surface of the wound and that the methods described in the references would necessarily function in that manner in their normal and usual operation. The first and second angles are result-effective operating parameters in the claims; one of ordinary skill in the art would not have been motivated to "optimize" them because the combination of references does not teach the significance of the angles. Moreover, by manipulating at least the first angle, the user can position the ultrasonic transducer such that it does not come into direct contact with the wound. The transducer, therefore, can remain sterile and be reused and will not cause contamination or infection of the wound. This represents an advantage over the teachings of *Fox* that is not taught or suggested in the other cited references.

Claim 44 has been amended, as stated above, to include the limitation of directing ultrasonic waves to an area offset from the axis of an ultrasonic transducer, creating a first angle with a first body surface, which is "selected such that the at least some of the reflected ultrasonic waves are reflected back to the interior surface of the wound." Even assuming that the combination of *Fox* in view of *Thompson et al.* or *Pellico* teaches delivering medicaments using ultrasound, the selection of an offset area based on angles as stated in the amended claims is not taught in the references. The invention as recited in the claims cannot be inherent in the combination because not one of the references alone, or as a combination, would necessarily function in that manner during their normal and usual operation. As noted above, the angle between the transducer and the first body surface is a result-effective operating parameter, and the references as combined cannot teach manipulating it because none of the references even discloses the angle, much less identify it as being a significant

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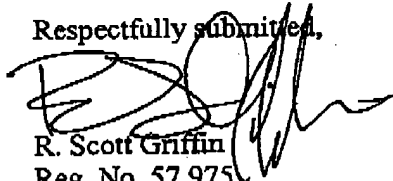
parameter. For at least these reasons, the obviousness rejection is respectfully traversed and Applicants respectfully request entry of the amendment and allowance of the claims.

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### CONCLUSION

Please reconsider this response and Amendment, originally submitted on January 31, 2006, and enter the amendments for continued examination. Applicants respectfully submit that claims 41-52 are in condition for immediate allowance, and requests early notification to that effect. If any issues remain to be resolved, the Examiner is respectfully requested to contact the undersigned attorney for the Assignee at 404.745.2434 to arrange for a telephone interview prior to issuance of an Office Action.

Respectfully submitted,

  
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Date: March 8, 2007

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